4876-6927-3247.v.1

Doc 916 Filed 02/05/24 Entered 02/05/ Information Deciment Projection a Banksuptcy Case or Case 8:23-bk-10571-SC Entered 02/05/24 19:07:10 UNITED STATES BANKRUPTCY COURT California District of In re THE LITIGATION PRACTICE GROUP P.C., Debtor Case No. 8:23-bk-10571-SC (Complete if issued in an adversary proceeding) Chapter 11 Plaintiff v. Adv. Proc. No. Defendant SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING) To: Custodian of Records for Wells Fargo Card Services / American Express Card (Name of person to whom the subpoena is directed) Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attachment "A". PLACE Marshack Hays Wood LLP DATE AND TIME February <u>28</u>, 2024 870 Roosevelt, Irvine, CA 92620 10:00 am Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it. **PLACE** DATE AND TIME The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not

doing so.

Date: January 30, 2024 MARSHACK HAYS WOOD LLP

CLERK OF COURT

OR /s/ Bradford N. Barnhardt

Signature of Clerk or Deputy Clerk Attorney's signature

The name, address, email address, and telephone number of the attorney representing (name of party) Richard A. Marshack, , who issues or requests this subpoena, are: Bradford N. Barnhardt, Esq., Marshack Chapter 11 Trustee

Hays LLP, 870 Roosevelt, Irvine, CA 92620; (949) 333-7777; bbarnhardt@marshackhays.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for (name of individual and title, if any): on (date) I served the subpoena by delivering a copy to the named person as follows:				
I returned the subpoena unexecuted because:				
Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$				
My fees are \$ for travel and \$ for services, for a total of \$ I declare under penalty of perjury that this information is true and correct.				
Date:				
	Server's signature			
	Printed name and title			
	Server's address			

Additional information concerning attempted service, etc.:

Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13) (made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)

(c) Place of compliance.

- (1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:
- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
- (ii) is commanded to attend a trial and would not incur substantial expense.
- (2) For Other Discovery. A subpoena may command:
- (A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
 - (B) inspection of premises, at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

- (1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction which may include lost earnings and reasonable attorney's fees on a party or attorney who fails to comply.
- (2) Command to Produce Materials or Permit Inspection.
- (A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.
- (B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:
- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.
- (3) Quashing or Modifying a Subpoena.
- (A) When Required. On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:
 - (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
 - (iv) subjects a person to undue burden.
- (B) When Permitted. To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:
- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.
- (C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:
- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

- (1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:
- (A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.
- (B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.
- (C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.
- (D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

- (A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:
 - (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.
- (B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt. The court for the district where compliance is required – and also, after a motion is transferred, the issuing court – may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

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Attachment "A"

Subpoena to Produce Documents in a Bankruptcy Case to Custodian of Records for Wells Fargo Card Services / American Express

Pursuant to the foregoing Subpoena in a Case Under the Bankruptcy Code ("Subpoena"), Custodian of Records for Wells Fargo Card Services / American Express ("AmEx") shall produce all DOCUMENTS that are in AmEx's possession, custody, or control described below.

INSTRUCTIONS

- 1. You are instructed to produce the Documents (as defined and described below) that are in your possession, custody, or control including, but not limited to, Documents in the possession of your attorneys, accountants, bookkeepers, agents, or representatives. You are further instructed to produce the Documents as they are kept in the usual course of business. If a Document is maintained on a computer, a hard copy of that Document shall be produced. In addition, Documents are to be produced in their entirety; redacted Documents will not constitute compliance with this request.
- 2. If you contend that the contents of a Document are protected from disclosure because of a privilege or the work-product doctrine, you must supply a description of that Document by providing the following information:
- a. Each privilege or doctrine which you contend protects the contents of that Document from disclosure;
 - b. Each fact upon which you rely to support your claim of privilege;
- c. The type of Document (e.g., letter, memorandum, telegram, facsimile transmission, e-mail, computer database, notes, memorandum of telephone conversation, etc.);
- d. The date of the Document or, if it bears no date, the date on which it was prepared;
 - e. The name of each author of the Document;
 - f. The name of each person to whom the Document was directed;
- g. The name of each person who received or reviewed the Document or to whom the Document or a copy thereof was supplied; and

Case	9 8:23-DK-10571-SC	Doc 916 Filed 02/05/24 Entered 02/05/24 19:07:10 Desc Main Document Page 7 of 13	
1	h.	The general subject matter of the Document.	
2	3. In the event that any Document described below has been destroyed, discarded, or		
3	otherwise disposed of ("Disposal"), each such Document is to be identified as completely as		
4	possible including, without limitation, the following information:		
5	a.	The type of Document (e.g., letter, memorandum, telegram, facsimile	
6	transmission, e-mail, computer database, notes, memorandum of telephone conversation, etc.);		
7	ь.	The date of the Document or, if it bears no date, the date on which it was	
8	prepared;		
9	c.	The name of each author of the Document;	
10	d.	The name of each person to whom the Document was directed;	
11	e.	The name of each person who received or reviewed the Document or to	
12	whom the Document or a copy thereof was supplied;		
13	f.	The general subject matter of the Document;	
14	g.	The date of Disposal;	
15	h.	The manner of Disposal;	
16	i.	The reason for the Disposal;	
17	j.	The name of the person who authorized the Disposal;	
18	k.	The name of the person who disposed of the Document;	
19	1.	The name of the custodian of the Document at the time of the Disposal;	
20	and		
21	m.	The disposition of the Document; and, if it is still extant, the name of the	
22	person who currently has possession, custody, or control of it.		
23		DEFINITIONS	
24	A. "DOCUMENT(S)" means a "writing" or "recording," as those terms are defined		
25	in Federal Rule of Evidence 1001, and refers to those materials in YOUR actual or constructive		
26	possession, custody or control, including, but not limited to, originals, copies, non-identical		
27	copies, and preliminary, intermediate, and final drafts of writings, recordings of oral		
28	communications, correspondence, e-mails, papers, books, pamphlets, periodicals, bills, accounts,		
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checks, check registers, letters, photographs, objects, telegrams, notes, minutes, memoranda, inter-office and intraoffice communications, reports, studies, surveys, forecasts, analysis, indexes, calendars, diaries, and recordings of every kind and description, whether inscribed by hand or by mechanical, electronic (such as on a computer hard drive or diskette), microfilm, phonic (such as tape recordings), photographic or other means. Handwritten or other notations of any kind on any copy of a DOCUMENT render it non-identical.

- В. The term "COMMUNICATION" shall mean correspondence, telephone conversations, person-to-person conversations, memoranda, e-mails (including text messages, correspondence and the like), facsimiles, telegrams, press releases, announcements, audio and video recordings, and all other forms of communicating language or thought.
- C. "RELATING TO" shall have the same meaning as "RELATE," "REFER," "REFERRING TO," "RELATED TO," "EVIDENCE," "EVIDENCING," and "CONSTITUTE" and includes referring to, recording, reflecting, supporting, interpreting, prepared in connection with, used in preparation for, pertaining to, mentioning, having any relationship to, or being in any way legally, logically, or factually connected with the matter discussed, in whole or in part.
- D. "YOU" or "AmEx" shall mean and refer collectively and individually to Wells Fargo Card Services / American Express and its agents and all other persons acting or purporting to act on its behalf.
- E. "PERSON" or "PERSONS" shall mean all natural persons, firms, associations, organizations, partnerships, business trusts, corporations, limited liability companies or public entities.

DOCUMENTS TO BE PRODUCED

- 1. All DOCUMENTS RELATING TO an AmEx account in the name of Han N. Trinh, 2128 W. Cherry Drive, Orange, CA 92868, with account number ending 5434 from February 20, 2019 to the present, including but not limited to account statements, balance transfers, payments, charges and rewards programs.
- 2. All DOCUMENTS RELATING TO any authorized users for the credit card account ending in 5434 from February 20, 2019 to the present.

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- 3. All DOCUMENTS RELATING TO any payment received on the AmEx account ending in 5434 from February 20, 2019 to the present.
- 4. All DOCUMENTS RELATING TO any application made by Han N. Tinh for the AmEx account ending in 5434 from February 20, 2019 to the present.
- 5. All COMMUNICATIONS, including but not limited to service agent notes, recordings, letters or any other method of correspondence with Han N. Trinh RELATING TO the AmEx account ending in 5434 from February 20, 2019 to the present.
- 6. All COMMUNICATIONS, including but not limited to service agent notes, recordings, letters or any other method of correspondence with Tony Diab RELATING TO the AmEx account ending in 5434 from February 20, 2019 to the present.
- 7. All COMMUNICATIONS, including but not limited to service agent notes, recordings, letters or any other method of correspondence with any PERSON RELATING TO the AmEx account ending in 5434 from February 20, 2019 to the present.

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: 870 Roosevelt, Irvine, CA 92620.

A true and correct copy of the foregoing document entitled: NOTICE OF SERVICE OF SUBPOENA TO CUSTODIAN OF RECORDS FOR WELLS FARGO CARD SERVICES/AMERICAN EXPRESS will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

manner stated below:		
Orders and LBR, the foregoing docu 31, 2024, I checked the CM/ECF doc	ment will be served by the cou cket for this bankruptcy case o	NIC FILING (NEF): Pursuant to controlling General curt via NEF and hyperlink to the document. On January or adversary proceeding and determined that the NEF transmission at the email addresses stated below:
		Service information continued on attached page
addresses in this bankruptcy case or envelope in the United States mail, fi	r adversary proceeding by plac irst class, postage prepaid, and	e following persons and/or entities at the last known cing a true and correct copy thereof in a sealed addressed as follows. Listing the judge here do no later than 24 hours after the document is filed.
DEBTOR – MAIL REDIRECTED TO THE LITIGATION PRACTICE GRO 17542 17TH ST, SUITE 100 TUSTIN, CA 92780-1981		
		⊠ Service information continued on attached page
F.R.Civ.P. 5 and/or controlling LBR, delivery, overnight mail service, or (for	on February 5 2024, I served for those who consented in writudge here constitutes a declar 24 hours after the document in COURT RNIA LDING AND COURTHOUSE	
		☐ Service information continued on attached page
I declare under penalty of perjury und	der the laws of the United Stat	tes that the foregoing is true and correct.
	yla Buchanan	/s/ Layla Buchanan
Date Pri	inted Name	Signature

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): CONTINUED:

- ATTORNEY FOR CREDITOR AFFIRMA, LLC and CREDITOR OXFORD KNOX, LLC: Eric Bensamochan eric@eblawfirm.us, G63723@notify.cincompass.com
- ATTORNEY FOR CHAPTER 11 TRUSTEE RICHARD A MARSHACK (TR): Peter W Bowie peter.bowie@dinsmore.com, caron.burke@dinsmore.com
- ATTORNEY FOR CREDITOR SDCO TUSTIN EXECUTIVE CENTER, INC.: Ronald K Brown ron@rkbrownlaw.com
- ATTORNEY FOR CHAPTER 11 TRUSTEE RICHARD A MARSHACK (TR): Christopher Celentino christopher.celentino@dinsmore.com, caron.burke@dinsmore.com
- **INTERESTED PARTY COURTESY NEF:** Shawn M Christianson cmcintire@buchalter.com, schristianson@buchalter.com
- INTERESTED PARTY COURTESY NEF: Randall Baldwin Clark rbc@randallbclark.com
- ATTORNEY FOR DEFENDANT LISA COHEN and DEFENDANT ROSA BIANCA LOLI: Leslie A Cohen leslie@lesliecohenlaw.com, jaime@lesliecohenlaw.com; clare@lesliecohenlaw.com
- INTERESTED PARTY COURTESY NEF: Aaron E. DE Leest adeleest@DanningGill.com, danninggill@gmail.com; adeleest@ecf.inforuptcy.com
- ATTORNEY FOR INTERESTED PARTY NATIONAL ASSOCIATION OF CONSUMER BANKRUPTCY ATTORNEYS and INTERESTED PARTY NATIONAL CONSUMER BANKRUPTCY RIGHTS CENTER: Jenny L Doling jd@jdl.law, dolingjr92080@notify.bestcase.com; 15994@notices.nextchapterbk.com; jdoling@jubileebk.net
- ATTORNEY FOR CREDITOR CAROLYN BEECH: Daniel A Edelman dedelman@edcombs.com, courtecl@edcombs.com
- ATTORNEY FOR CREDITOR VALIDATION PARTNERS LLC: William P Fennell william.fennell@fennelllaw.com, luralene.schultz@fennelllaw.com; wpf@ecf.courtdrive.com; hala.hammi@fennelllaw.com; naomi.cwalinski@fennelllaw.com; samantha.larimer@fennelllaw.com
- ATTORNEY FOR CREDITOR HERRET CREDIT: Eric Gassman erg@gassmanlawgroup.com, gassman.ericb112993@notify.bestcase.com
- ATTORNEY FOR CHAPTER 11 TRUSTEE RICHARD A MARSHACK (TR): Christopher Ghio christopher.ghio@dinsmore.com, nicolette.murphy@dinsmore.com; angelica.urena@dinsmore.com; deamira.romo@dinsmore.com
- ATTORNEY FOR CREDITOR AMY GINSBURG; CREDITOR KENTON COBB; and CREDITOR SHANNON BELLFIELD: Amy Lynn Ginsburg efilings@ginsburglawgroup.com
- ATTORNEY FOR DEFENDANT STRIPE, INC.: Eric D Goldberg eric.goldberg@dlapiper.com, eric-goldberg-1103@ecf.pacerpro.com
- ATTORNEY FOR CREDITOR AFFIRMA, LLC; CREDITOR ANAHEIM ARENA MANAGEMENT, LLC; CREDITOR ANAHEIM DUCKS HOCKEY CLUB, LLC; and CREDITOR OXFORD KNOX, LLC: Jeffrey I Golden jgolden@go2.law, kadele@ecf.courtdrive.com; cbmeeker@gmail.com; lbracken@wgllp.com; dfitzgerald@go2.law; golden.jeffreyi.b117954@notify.bestcase.com
- ATTORNEY FOR CREDITOR DEBT VALIDATION FUND II, LLC; CREDITOR MC DVI FUND 1, LLC; and CREDITOR MC DVI FUND 2, LLC: Richard H Golubow rgolubow@wghlawyers.com, jmartinez@wghlawyers.com; svillegas@wghlawyers.com
- ATTORNEY FOR CREDITOR UNITED PARTNERSHIPS, LLC: David M Goodrich dgoodrich@go2.law, kadele@go2.law; dfitzgerald@go2.law; wggllp@ecf.courtdrive.com
- ATTORNEY FOR CHAPTER 11 TRUSTEE RICHARD A MARSHACK (TR): D Edward Hays ehays@marshackhays.com, ehays@ecf.courtdrive.com; kfrederick@ecf.courtdrive.com; cmendoza@marshackhays.com; cmendoza@ecf.courtdrive.com
- ATTORNEY FOR CREDITOR CITY CAPITAL NY: Alan Craig Hochheiser ahochheiser@mauricewutscher.com, arodriguez@mauricewutscher.com
- ATTORNEY FOR CREDITOR DEBT VALIDATION FUND II, LLC; CREDITOR MC DVI FUND 1, LLC; and CREDITOR MC DVI FUND 2, LLC: Garrick A Hollander ghollander@wghlawyers.com, jmartinez@wghlawyers.com; svillegas@wghlawyers.com
- ATTORNEY FOR CREDITOR SHARP ELECTRONICS CORPORATION: Brian L Holman b.holman@musickpeeler.com
- INTERESTED PARTY COURTESY NEF: Richard L. Hyde richard@amintalati.com
- ATTORNEY FOR INTERESTED PARTY MERCHANTS CREDIT CORPORATION: Peter L Isola pisola@hinshawlaw.com, Inystrom@hinshawlaw.com

- ATTORNEY FOR CREDITOR, PLAINTIFF, and COUNTER-DEFENDANT OHP-CDR, LP and PLAINTIFF and COUNTER-DEFENDANT PURCHASECO 80, LLC: Razmig Izakelian razmigizakelian@quinnemanuel.com
- ATTORNEY FOR DEBTOR THE LITIGATION PRACTICE GROUP P.C.: Joon M Khang joon@khanglaw.com
- ATTORNEY FOR INTERESTED PARTY AD HOC CONSUMER CLAIMANTS COMMITTEE: Ira David Kharasch ikharasch@pszjlaw.com
- ATTORNEY FOR DEFENDANT GALLANT LAW GROUP: Meredith King mking@fsl.law, ssanchez@fsl.law; jwilson@fsl.law
- ATTORNEY FOR COMMITTEE OF UNSECURED CREDITORS: Nicholas A Koffroth nkoffroth@foxrothschild.com, khoang@foxrothschild.com
- ATTORNEY FOR DEFENDANT MARICH BEIN, LLC: David S Kupetz David.Kupetz@lockelord.com, mylene.ruiz@lockelord.com
- **INTERESTED PARTY COURTESY NEF:** Christopher J Langley chris@slclawoffice.com, omar@slclawoffice.com; langleycr75251@notify.bestcase.com; ecf123@casedriver.com
- ATTORNEY DEFENDANT OPTIMUMBANK HOLDINGS, INC.: Matthew A Lesnick matt@lesnickprince.com, matt@ecf.inforuptcy.com; jmack@lesnickprince.com
- ATTORNEY FOR DEFENDANT CONSUMER LEGAL GROUP, P.C.; DEFENDANT LGS HOLDCO, LLC; INTERESTED PARTY CONSUMER LEGAL GROUP, P.C.; and INTERESTED PARTY LIBERTY ACQUISITIONS GROUP INC: Daniel A Lev daniel.lev@gmlaw.com, cheryl.caldwell@gmlaw.com; dlev@ecf.courtdrive.com
- ATTORNEY FOR INTERESTED PARTY REVOLV3, INC.: Britteny Leyva bleyva@mayerbrown.com, 2396393420@filings.docketbird.com; KAWhite@mayerbrown.com; ladocket@mayerbrown.com
- ATTORNEY FOR CREDITOR PHILLIP A GREENBLATT, PLLC: Michael D Lieberman mlieberman@lipsonneilson.com
- ATTORNEY FOR CHAPTER 11 TRUSTEE RICHARD A MARSHACK (TR): Yosina M Lissebeck Yosina.Lissebeck@Dinsmore.com, caron.burke@dinsmore.com
- ATTORNEY FOR CREDITOR FUNDURA CAPITAL GROUP: Mitchell B Ludwig mbl@kpclegal.com, kad@kpclegal.com
- ATTORNEY FOR DEFENDANT DANIEL S MARCH: Daniel S March marchlawoffice@gmail.com, marchdr94019@notifv.bestcase.com
- ATTORNEY FOR CREDITOR and DEFENDANT GREYSON LAW CENTER PC, CREDITOR and DEFENDANT HAN TRINH; and CREDITOR and DEFENDANT PHUONG (JAYDE) TRINH: Kathleen P March kmarch@bkylawfirm.com, kmarch3@sbcglobal.net, kmarch@sbcglobal.net
- ATTORNEY FOR CREDITOR DAVID ORR: Mark J Markus bklawr@bklaw.com, markjmarkus@gmail.com; markus.markj.r112926@notify.bestcase.com
- CHAPTER 11 TRUSTEE RICHARD A MARSHACK (TR): Richard A Marshack (TR) pkraus@marshackhays.com, rmarshack@iq7technology.com; ecf.alert+Marshack@titlexi.com
- ATTORNEY FOR CHAPTER 11 TRUSTEE RICHARD A MARSHACK (TR): Laila Masud lmasud@marshackhays.com, lmasud@ecf.courtdrive.com; kfrederick@ecf.courtdrive.com
- ATTORNEY FOR CHAPTER 11 TRUSTEE RICHARD A MARSHACK (TR): Sarah S Mattingly sarah.mattingly@dinsmore.com
- ATTORNEY FOR US TRUSTEE: Kenneth Misken Kenneth.M.Misken@usdoj.gov
- INTERESTED PARTY COURTESY NEF: Byron Z Moldo bmoldo@ecjlaw.com, amatsuoka@ecjlaw.com, dperez@ecjlaw.com
- ATTORNEY FOR CREDITOR ADP, INC: Glenn D Moses gmoses@venable.com, cascavone@venable.com; ipmalcolm@venable.com; jadelgado@venable.com
- INTERESTED PARTY COURTESY NEF: Alan I Nahmias anahmias@mbn.law, jdale@mbnlawyers.com
- INTERESTED PARTY COURTESY NEF: Victoria Newmark vnewmark@pszilaw.com
- ATTORNEY FOR US TRUSTEE: Queenie K Ng queenie.k.ng@usdoj.gov
- ATTORNEY FOR COMMITTEE OF UNSECURED CREDITORS: Keith C Owens kowens@foxrothschild.com, khoang@foxrothschild.com
- ATTORNEY FOR DEFENDANT OPTIMUMBANK HOLDINGS, INC.: Lisa Patel lpatel@lesnickprince.com, jmack@lesnickprince.com; jnavarro@lesnickprince.com
- ATTORNEY FOR CREDITOR WELLS MARBLE AND HURST, PLLC: Michael R Pinkston rpinkston@seyfarth.com, jmcdermott@seyfarth.com, sfocalendar@seyfarth.com, 5314522420@filings.docketbird.com, bankruptcydocket@seyfarth.com
- ATTORNEY FOR DEFENDANT SCOTT JAMES EADIE: Douglas A Plazak dplazak@rhlaw.com

- ATTORNEY FOR DEFENDANT TOUZI CAPITAL, LLC and DEFENDANT ENG TAING: Daniel H Reiss dhr@lnbyg.com, dhr@ecf.inforuptcy.com
- ATTORNEY FOR DEFENDANT CONSUMER LEGAL GROUP, PC: Ronald N Richards ron@ronaldrichards.com, 7206828420@filings.docketbird.com
- ATTORNEY FOR CREDITOR WELLS MARBLE AND HURST, PLLC: Kevin Alan Rogers krogers@wellsmar.com
- ATTORNEY FOR CREDITOR MARI AGAPE: Gregory M Salvato gsalvato@salvatoboufadel.com, calendar@salvatolawoffices.com; jboufadel@salvatoboufadel.com; gsalvato@ecf.inforuptcy.com
- ATTORNEY FOR CREDITOR AZZURE CAPITAL LLC and CREDITOR HI BAR CAPITAL LLC: Olivia Scott olivia.scott3@bclplaw.com
- ATTORNEY FOR CHAPTER 11 TRUSTEE RICHARD A MARSHACK (TR): Jonathan Serrano jonathan.serrano@dinsmore.com
- ATTORNEY FOR RANDALL BALDWIN CLARK ATTORNEY AT LAW PLLC: Maureen J Shanahan Mstotaro@aol.com
- ATTORNEY FOR CREDITORS UNITED PARTNERSHIPS, LLC and MNS FUNDING LLC: Paul R Shankman PShankman@fortislaw.com, info@fortislaw.com
- ATTORNEY FOR INTERESTED PARTY MORNING LAW GROUP, PC: Zev Shechtman zs@DanningGill.com, danninggill@gmail.com; zshechtman@ecf.inforuptcy.com
- ATTORNEY FOR US TRUSTEE: Leslie Skorheim leslie.skorheim@usdoj.gov
- ATTORNEY FOR CREDITOR PIONEER FUNDING GROUP, LLC: Adam D Stein-Sapir info@pfllc.com
- ATTORNEY FOR DEFENDANT BANKUNITED, N.A.: Howard Steinberg steinbergh@gtlaw.com, pearsallt@gtlaw.com; NEF-BK@gtlaw.com; howard-steinberg-6096@ecf.pacerpro.com
- ATTORNEY FOR CREDITOR ALTERYX, INC.: Andrew Still astill@swlaw.com, kcollins@swlaw.com
- ATTORNEY FOR CREDITOR RANDALL BALDWIN CLARK ATTORNEY AT LAW PLLC and INTERESTED PARTY RANDALL BALDWIN CLARK: Michael R Totaro Ocbkatty@aol.com
- US TRUSTEE: United States Trustee (SA) ustpregion16.sa.ecf@usdoi.gov
- ATTORNEY FOR CREDITOR and DEFENDANT AZZURE CAPITAL LLC and CREDITOR HI BAR CAPITAL LLC: Sharon Z. Weiss sharon.weiss@bclplaw.com, raul.morales@bclplaw.com, REC KM ECF SMO@bclplaw.com
- ATTORNEY FOR CREDITOR DEBT RELIEF GROUP, LLC: Johnny White JWhite@wrslawyers.com, jlee@wrslawyers.com

2. SERVED BY UNITED STATES MAIL:

INTERESTED PARTY:

HAN N. TRINH 212 W. CHERRY DRIVE ORANGE, CA 92868

Tony Diab 20101 SW Cypress Street Newport Beach, California 92660